

Moultonborough Planning Board
P.O. Box 139
Moultonborough, NH 03254

Regular Meeting

July 10, 2013

Minutes

Present: Members: Tom Howard, Chair; Peter Jensen, Paul Punturieri, Josh Bartlett, Judy Ryerson, Bob Goffredo; Russ Wakefield (Selectmen's Representative)
Alternates: Keith Nelson, Natt King (left at 8:50)
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Pledge of Allegiance

Mr. Howard called the regular meeting to order at 7:00 P.M.

II. Approval of Minutes

Motion: Mr. Punturieri moved to approve the Planning Board Minutes of June 26, 2013, as amended, seconded by Mr. Jensen, carried unanimously.

Motion: Mr. Jensen moved to approve the Planning Board On-site Minutes of July 1, 2013, as amended, seconded by Mr. Punturieri, carried unanimously with Mr. Bartlett, Mr. Wakefield and Mr. Howard abstaining.

III. New Submissions

IV. Boundary Line Adjustments

V. Hearings

1. Continuation of Bear's Nest Trail, LLC (64-5)(Bear's Nest Trail)
Conditional Use Permit

Mr. Howard stated that this was an application for a Conditional Use Permit for Bear's Nest Trail and that he would be stepping down from the board for this hearing. Mr. Jensen seated Keith Nelson in his place with full voting privileges.

Mr. Jensen stated that the board was looking at this application from the perspective of the application being brought to us before any work has been done. He opened the discussion to the board. Mr. Punturieri noted the average height of the structure is 27 feet and asked what the tallest point was. Ms. Whitney referred to her notes from the ZBA meeting in which she noted the contractor had measured the height to be 22.6' and 31.6' for an average of 27'.

Mr. Bartlett referred to the checklist the board received, the steep slopes CUP criteria worksheet. He noted that it said that a conditional use permit shall be granted by the planning board, after a public hearing, and upon positive findings by the Board for the following criteria and performance standards. He asked if this was an absolute. Did the Board have to say yes on every one of these, because he couldn't say yes on every one of these. #1, #4 and #7 are definite no's. Mr. Jensen asked if he was saying from his perspective, the applicant has not demonstrated practicable alternatives exist? Mr. Jensen stated they have

a variance from #7. So #1 and #4 are the problem. If these are an absolute, if this is the rules, then we ought to follow them.

Mr. Jensen commented that the Planner had prepared the worksheet and asked for his input. Mr. Woodruff commented that the worksheet was taken directly from the ordinance. The only difference is it is numbered 1-11 instead of a-i, or b, c as numbered in the ordinance. Members reviewed the ordinance in conjunction with the worksheet and felt it was accurate. Attorney Chris Boldt, representing the applicant, agreed the text is pulled from the ordinance. He asked that he be able to address particular questions since they had the site walk.

Ms. Ryerson asked for clarification purposes, that they were looking at this as if nothing had yet been built. The question was that item #7 has been taken off the table as they had received a variance. Mr. Jensen stated that sometimes proposals come to the Board where they have already gone to the ZBA and that is acceptable. Ms. Ryerson questioned if the variance was granted based on the fact that there was a structure there. Mr. Jensen asked the Board if they were supposed to allow the fact that something has occurred without coming to the Board first to impact how they treat their consideration. Should they give it a different consideration than if it were not built over something that was built? Mr. King feels that they should view it as a clean piece of land and asked for the Planners input as well. Mr. Nelson opinion is, it's a clean piece of land, ok, but the ZBA said on this clean piece of land you can build this structure. It is contrary to the 35% restriction, but the ZBA says yes you can build it. Clean piece of land comes to us, they have already gotten an approval from the ZBA. We do not have to meet that criterion on #7. The ZBA has already determined that, and that's exactly how we would treat it on any other application. Members Russ, Bob, Josh, Judy, Paul and Natt agreed with Mr. Nelson's opinion.

The variance was granted with the knowledge that the applicant must obtain a CUP, and get a building permit from the Code Enforcement Officer. They are in the process of obtaining the necessary approvals.

Attorney Chris Boldt was present this evening representing the applicant. He asked for the opportunity to make a pitch to the Board this evening as this was a substantial change in the Boards position and how his presentation was made. With this new document and new information he respectfully requested the opportunity to go through the criteria.

Mr. Jensen commented that he would allow Mr. Boldt the opportunity to make a different presentation, but the Board hasn't changed its position.

Mr. Boldt addressed each of the criteria giving their reasoning as to why they meet each. He specifically addressed # 1 and #4. The first criteria being consistent with the spirit and intent of the ordinance. You must look at the three major topics that are covered by the purpose statement of the ordinance. One to reduce damage to streams and lakes. Ms. Coppinger's report indicates this project will not create effluent, and no runoff. No streams or lakes are impacted negatively. This is not a dwelling unit. It doesn't have a septic system or a paved driveway. A second topic is to preserve natural topography, drainage patterns, vegetative cover, scenic views, wildlife habitat and to protect unique natural areas. Their proposal is not to change the topography. It doesn't affect drainage patterns, it doesn't impact scenic views, or involve unique natural areas. The vegetative cover is being preserved in part by not stumping. The vegetation is already starting to resprout. A third area is to protect from adverse impacts of flooding and to preserve integrity of the drinking water supplies. Again nothing in their plan will impact those concerns negatively. Due in part to the location where they are proposing the structure, there is a large area of undisturbed woods between the structure and the existing house on the adjacent lot. Mr. Boldt pointed out the definition of site disturbance in our ordinance. They believe they have met the spirit of the ordinance. Number 4 "The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the district". He believes that the site walk shows that there is not a

practicable alternative. He views practicable as “is there something that gives the exact thing that the applicant is seeking, that does not have a negative impact on the district”. He noted some members looked at a different part of the site, and his position is that if you were considering that as an alternative, remember that that would result in many more trees being cut and they aren’t in any way getting the same view by being so much further down the slope. It is not practicable for the item being under consideration. If the Board were saying that there was an alternate site to have this tower, his position is that more trees would have to be cut than what their plan is now showing. More trees would have to be cut to try to get the expanse of the view they are proposing. They are not sure that you could get the view that they are proposing and therefore there is not a practicable alternative.

Mr. Bartlett noted that he was troubled by the idea that the Board has to approve this as they have to have the same view and there is no other place to put the tower.

Mr. Jensen opened the hearing to the public for comments.

Tom Howard spoke to this application as a member of the public, having recused himself from the hearing for a conflict of interest. Mr. Howard referred to the June 26th PB minutes in which Mr. Boldt stated that the purpose of the ordinance is clearly set out in the beginning passage, which is to avoid dwelling units and septic systems in these locations, and that this is not going to have a septic system and is not a dwelling unit. Mr. Howard stated he had read the purpose on page 53 of the Zoning Ordinance, Article XIV, Section II “The purpose of this ordinance is to reduce damage to streams and lakes from the consequences of excessive and improper construction, erosion, storm water runoff, or effluent from improperly sited sewage disposal systems, and to preserve... etc.” He stated that dwelling unit is not in there, so this is not a limitation. This is excessive and improper construction. With regard to the fact that no practicable alternatives exists, he believes that there is an area on the lot that will meet the slopes definition. If this is contended by the applicant, the Board might need topo to prove that it doesn’t exist. What’s not pertinent to the discussion this evening is whether you feel it should be torn down, that the structure already exists, whether the view is as good for determining if the alternative site that meets the steep slopes ordinance parameters is practicable or not, not pertinent. The amount of damage the relocation would do, not pertinent. What is pertinent is whether another location exists that would not have been contrary to our ordinances.

Mr. Jensen asked if there was any further input from the public. There being none he closed the public hearing.

The Board discussed each of the eleven criteria for the granting of the CUP.

Mr. Jensen read the first CUP criteria.

1. “The proposed use is consistent with the spirit and intent of the ordinance.” Mr. King stated that he did not believe that it is. Article XIV was overwhelmingly approved by the voters. He believes that the board should act appropriately and he does believe that there’s definitely a more practicable location for it. Mr. Punturieri agreed with Natt. Just the fact that there is almost an acre of forest that was clear cut. To go back and look on Google Earth to about 2011 you’ll see that it was all wooded. You can’t even see where there could be a trail. He just has to wonder, there wouldn’t have been any mitigation if it hadn’t been required of the zoning board to put in the little rain garden. Mr. Boldt commented that had always been in their plan. That wasn’t a condition of the ZBA. Mr. Punturieri said trying not to go back again, pretending that this is a forested area and an acre of land was cleared to build a 100 square foot lookout tower that ultimately could have been a tree house. Something that provided look out to take in the best possible view as we all saw when we were out there. So out of the spirit and intent of the ordinance he thinks that is a lot of trees to be cleared and he didn’t buy the argument that it’s being vegetated to the point that it is going to go back to the way it was and not cause the things that were talked about in Article XIV. Mr. Nelson commented if he looked at the purpose of the ordinance, it’s stated in the ordinance, forgetting about everything else, and look at the purpose and say, are they preventing these impacts or are the

mitigating these impacts efficiently that are in the purpose, he thinks that they have and would. If this were a new application he would again say what you are going to do to fix this. If you're going to clear all of this property and do this work, what are you going to do to mitigate it? The purpose of the CUP is to allow uses within certain areas. It's not an ordinance that says you can't. A CUP is you can if you meet these conditions. And he thinks they are meeting those conditions of #1, they are meeting the purpose of the ordinance. Ms. Ryerson commented one of the values stated in the purpose was scenic views, and protecting unique natural areas, Red Hill certainly is that. And she understands that this cut can now clearly be seen from Route 109 and probably Ossipee Mountain Road, and it was not such before. It will take a long, long time for that area to grow in sufficiently with that scar on the side of the mountain to no longer be visible. So she really thinks that you can't just say that by in large because it avoids ten items in here, you don't see any erosion yet, or whatever, but that is a very, very steep trail, and would also expect that over time there's going to be serious erosion on the path. But I am no engineer and trust Joanne's science and expertise so I won't contest that. But certainly some of the values as specified in this are not consistent with the spirit and intent of that ordinance. Mr. Wakefield commented that the applicant's wishes to put a tower someplace on their property where it affords them the best view, and there were some stumbling blocks they had to get over, slopes, removal of trees. I believe they have met all of those. If in reading all the criteria, and all the engineering that went into it, if they can meet that, it in essence meets #1, the spirit and intent of the ordinance. They are not harming anything. Their engineering put them on less than 2:1 slope with their building. Their engineering as provided for any down slope runoff. It is clear that the undergrowth is growing back fine. If anyone has ever seen a clear cut lot, it takes a year or less. In his mind #1 and #4 are contingent on each other and he thinks #4 has been satisfied, and therefore #1 has been satisfied. Mr. Jensen commented that #1 is very iffy, it certainly does not meet the scenic view portion of the intent. It is questionable whether it meets the wildlife habits because it does alter them. Whether it makes it better or worse, we don't really know. It certainly does not protect unique natural areas when you cut them down. That doesn't do anything to protect them. He thinks relative to reducing the damage to the streams and lakes, the plan kind of looks like it's got some good engineering around the tower. He is not all convinced when you take down a canopy of trees in the woods, that letting it regrow is equivalent to not having taken them down. He has never seen ground, especially on a slope, which was one of the reasons for this ordinance, on a slope where water runs off pretty quickly and picks up anything that is there and deposits all where ever it stops. He has never seen it be the same, even with low vegetated growth. They have done a good job planning how they are going to deal with runoff that will go down the path. The rest he is not convinced that just letting it grow back on its own is going to work. Russ asked if a "no" on any criteria stops the CUP. Mr. Nelson commented this ordinance was enacted with provisions for conditional use permits, and they have the provisions as outlined in the performance standards, and if they meet those performance standards, it seems to him, that they are meeting the purpose of the ordinance. They are meeting the performance standards. Therefore they are satisfying the purpose within the ordinance. That is the key to him and the whole thing.

Mr. Jensen read criteria #2 and referred to the Conservation Commission's comments.

2. "Receipt of a review and recommendation of the Conservation Commission." That is pretty straight forward. They were kind of opposed to this.

Mr. Jensen read criteria #3.

3. "Receipt of a review and recommendation of any other professional expertise deemed necessary by the Board. (optional)." The Board will decide by the end of the hearing whether or not they think they need any more expertise than what they have already received or heard from the applicant.

Mr. Jensen read criteria #4.

4. "The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the district." Mr. Bartlett commented that he has a real problem with the kind of, and we have heard this a number of times, in a number of hearings, and we are hearing it again tonight, well if we're going to do this on this lot, it has to be here. If we're going to do what we want, it has to be here.

That presupposes that what they want to do, we have to allow them to do. He just has a real problem with the attitude that, well we couldn't get the best view of the lot if we didn't put this where we put it. It just doesn't sit right. There's something wrong with the attitude. On the other hand, he does think that with all of this, it would be great if we could pretend that it didn't happen... Mr. Jensen, don't go there Josh. We are talking about this application and where they want to put it. Have they demonstrated there are no practicable alternatives? Mr. Bartlett said no. Mr. King stated that he doesn't believe that they have. He thinks that it was obvious that there is a more practicable location where the road first comes in. It's remarkably less steep there. It would not entail putting a road over a lot of ledge and much steeper soils. It certainly is in his view more practicable. They haven't proven to him. Mr. Punturieri commented that it was his feeling after this site visit that he doesn't know that it has been demonstrated that that particular building or a similar type of structure couldn't be built somewhere else and have less impact. Ms. Ryerson went down to an area that from the lookout area appeared to be somewhat flat. She went down and walked around and noticed a lot of flags and asked what those flags referred to and nobody seemed to have any knowledge as to why they were there. She and Mr. King walked that area and walked along the flagged path. While it's true, it is lower, the proposal is to build a lookout tower, which is an accessory structure of some sort, and they aren't building a hospital, a bridge or a school, they are building somebody's lookout tower. If that position is in violation of what were are trying to do here in Moultonborough, people voted on this at the ballot box, and there is a flat area where you could have a good view, then that seems to her that they have been disingenuous by saying there is no alternative. That would be like saying that I want to build my house 10' from the lake because there is a really good view there, so the alternative of building it 50' back is not acceptable even though it is in the ordinance. That's the way she felt it when she was up there and it clearly was there. Mr. Wakefield commented this is their choice. He thinks it is dangerous for the planning board to sit in the position where we dictate where this goes. They may have their own opinions where it might be better, but the applicant has chosen this area. The second part of #4, and that all measures have been taken to minimize the impact that construction activities will have upon the district. They have done that for this particular site. It is important to separate the two parts of #4. Mr. Nelson likes Ms. Ryerson's reasonability with getting the variance to locate your house within 10' of the lake. If this was an application where they got approval from the zoning board to locate the house within 10' of the lake he doesn't think they would be discussing where that particular thing would be located and require them to go back to the 50' because there is an area back there. They would be looking at that variance in respect to that 10%. If you want to go to other areas of the property that are over 35% grade, which they have a variance for, he has no problem with them saying okay maybe it would be better over there, but the outcome would be that the applicant has decided that is probably the best place for their use. So he thinks that the 35%, where they are located is the only practicable place on that 35% slope. Mr. Bartlett commented that he wanted to understand Mr. Wakefield's comment that the planning board or the zoning board shouldn't be telling people where they can build their buildings. He thought that was fundamental to their zoning ordinance. We tell them that they can't build it within 50' of the lake. We specify setbacks. He doesn't understand the point that we can't tell people where to build a building. Mr. Wakefield commented that he thinks the zoning board has already taken care of that. Mr. Jensen commented the rules are there for when what someone wants is different than what other people want. There was a majority of the voters in town that decided they want to have this ordinance. It does have rules that create boundaries for where you can put something and at the same time everybody kind of feels if it's my property I should get to decide what I want to do with it. We have all made that argument ourselves at one time. That's a tough call. This comes down to if you really feel the applicant has demonstrated there is no practicable alternative. Some people will feel they have and others will feel they have not. An alternative would never be the first choice. By definition it would always be something else. Mr. Goffredo feels the applicant would have looked the situation over, made several choices and that choice is their best choice. Under the CUP is the flexibility to help them out. He thinks their choice is the best. Mr. King thinks the second part of #4 has not been met. There definitely is an area far, far less steep on other parts of the lot that would not entail a road going over ledge at 35+% slopes. Mr. Nelson stated the ZBA has already said they could put something on a 35% slope. That should not be in their consideration now. They are coming to the planning board for a CUP, so they go through the criteria to see if they satisfy them and meet the intent of the ordinance. They shouldn't be saying okay, go down to

another spot. They got permission to put it there on that 35% slope. Mr. King said that he wouldn't say 35% slope. They have not taken every measure that they can to minimize impact. Mr. Punturieri commented that he hasn't seen anything in black and white that demonstrates that there is no practicable alternative.

Mr. Jensen read criteria #5.

5. "The grading cut and fill should not exceed a 2:1 ratio. Cuts and fills shall be minimized." All members agreed this has been met.

Mr. Jensen read criteria #6.

6. "Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible." Mr. Punturieri commented that he was still looking as to why they had to cut an acre of woods to build a lookout tower. They are going to re-vegetate, but still trim to a 3' height, a 20,000 square foot area. He doesn't think they did. An acre of land is proposed to be cut. Why would you need to cut that much land to build that tower in that location? Mr. King agreed with Paul. Mr. Bartlett commented that he wasn't too worried with it. Mr. Wakefield commented that it is growing back. Mr. Bartlett stated they did show care in not stumping it. Mr. Jensen commented what bothered him was that the requirement is that the site will shall be replanted with indigenous vegetation. He'd like to see on the plan where that is shown that that's happened, unless you think they have made the argument that allowing it to re-grow by itself is replanting with natural vegetation. Mr. Wakefield thinks the root mass that's there is better than anything they could put in its place and most of the lot is re-growing now.

Mr. Jensen read criteria #7.

7. "No structure shall be built on an extremely steep slope (greater than 25 percent prior to site disturbance)." This is not applicable as they received a variance from the ZBA.

Mr. Jensen read criteria #8.

8. "There shall be no negative impact to water quality post-development from pre-development conditions." The Erosion Control Report addressed this.

Mr. Jensen read criteria #9.

9. "Post-development peak runoff rate and volume shall not exceed pre-development levels for a 50-year storm event." The Erosion Control Report addressed this.

Mr. Jensen read criteria #10.

10. "Storm water management designs shall demonstrate that annual average pre-development groundwater recharge volume (GRV) is maintained post-development, when compared to pre-development conditions." The Erosion Control Report addressed this.

Mr. Jensen read criteria #11.

11. "For the purposes of calculating pre-development conditions, any site that was wooded in the last five (5) years shall be treated as though the pre-development conditions are undisturbed woods." The Erosion Control Report addressed this.

Mr. King commented another point that he would like to make with a site that might be more practicable is that the better the site the less impact and maintenance and repair will have on the terrain also.

Mr. Woodruff added that it might be wise to read the Conservation Commission comments into the record as it is one of the criteria. Mr. Jensen read the following: This project violates 2 ordinances: a. building on a slope greater than 25%. B. disturbing more than 20,000 square feet of contiguous property. The owner should take steps to mitigate stormwater runoff through the use of best practices. Mr. Nelson commented

that building on a slope greater than 25% was addressed by the ZBA. And item b. disturbing more than 20,000 square feet of contiguous property is why they are before the board for a CUP, so those two items are being addressed. The owner has taken steps for the mitigation and is shown in the report.

Mr. Jensen polled the board on each of the 11 criteria with the votes shown in the table listed below.

Member	Russ	Bob	Josh	Judy	Keith	Peter	Paul
1	Y	Y	NO VOTE	N	Y	N	N
2	Y	Y	Y	Y	Y	Y	Y
3	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	Y	Y	Abstained	N	Y	N	N
5	Y	Y	Y	Y	Y	Y	Y
6	Y	Y	Y	N	Y	N	N
7	N/A	N/A	N/A	N/A	N/A	N/A	N/A
8	Y	Y	Y	Y	Y	Y	Y
9	Y	Y	Y	Y	Y	Y	Y
10	Y	Y	Y	Y	Y	Y	Y
11	Y	Y	Y	Y	Y	Y	Y

Mr. Woodruff stated that in the poll the board has found that all of the performance criteria standards have been met with the exception of two, which were a dead heat, #1 and #4. They were either by a unanimous vote, met by variance, optional and #6 was a 4 to 3 vote in favor. #1 and #4 was tied with a poll vote.

Mr. Bartlett commented that he abstained on those two for the reason that there is a reality here. Despite the fact that we want to pretend that this thing has not been built, the alternative really is to deny it and the effect of that would be to either require it to be moved or taken down or some other, or maybe we go to court for six months or a year. None of which he thinks are going to do anybody a lot of good. He is furious that this thing went ahead without a permit. He was just about as angry as he could be. He is very, very angry at the attitude that, well it gave us the best view, so that's the only site that's practicable. Having said that, he thinks that they should grant the CUP, he knows they are sending a very bad message to anybody else that goes ahead does whatever they want because it's easier to beg forgiveness than to ask permission. But he thinks they should grant it at this point. It is in the best interest of the town and the towns people.

Ms. Ryerson asked why he didn't just vote then. Mr. Bartlett commented that he could not say that he believes that they met those two criteria, so he proposed the following motion:

Motion: Mr. Bartlett moved that the board grant the Conditional Use Permit for Bear's Nest Trail, LLC (64-5)

Mr. Nelson commented that he believes that the board needs to have a positive finding by the board to grant a motion to approve the permit. He thinks their only choice at this point is to deny the conditional use permit as they don't have a positive finding by the board. They have a split finding by the board, the split being exactly equal on two of the criteria. He doesn't think they have any choice but to deny the conditional use permit.

Mr. King commented that a tie means it does not pass.

Motion seconded by Mr. Wakefield.

Mr. Jensen called for discussion on the motion. Mr. Punturieri commented since Mr. Bartlett made a motion that ultimately will pass, and if it is going to pass, then he thinks that they should at least impose an amendment and further condition that the area be allowed to re-vegetate back to its natural state, and not be trimmed in that 20,000 square feet area, to three foot height. Mr. Bartlett questioned the 20,000 feet being? Mr. Punturieri stated the semi-circle. Mr. Boldt pointed to the area and asked if that was including the drainage structure? Mr. Punturieri said yes. Mr. Boldt questioned if the board wanted trees growing up in the drainage structure proposed. Mr. Punturieri stated he would add to his proposed amendment, with the exception of the drainage area. Mr. Jensen questioned the area between the drainage and the building. In discussion and reviewing the plan it was the agreement to move the required re-vegetation line to be along the 1252 elevation shown on the plan, which is below the drainage structure. Mr. Bartlett questioned the floor level of the tower. That was not known. They then discussed the area this would extend from the left and right. Mr. Bartlett seconded the amendment.

Mr. King commented that they were talking about the structure and what's there now and up to this point he thought that they were treating it as a clean piece of land. Mr. Jensen stated they were. They have come in with a proposal and we're talking about changing that proposal. Mr. Punturieri commented if that were still forested, what they are proposing is that they not clear cut, or not allow vegetation to be trimmed up to that 1252 elevation, if any when they ever cut it.

Mr. Howard commented as a point of order, certainly it is his understanding that a tie vote is a failure on the motion. Mr. King and Mr. Nelson, in his opinion are absolutely correct. To take this further before definitively making that point, of which way that vote really went, is critical. And would think that the applicant would think so as well as it would immediately be appealable that you voted perhaps yes, on something that you had already voted no on by not satisfying each of the criteria.

Mr. Bartlett pointed out that they were not voting. They were polling the board. Mr. Jensen stated that he polled the board on each of the criteria. It was their understanding that they had to meet each of the criteria, which is why they polled the board. He did not know what the law was or would say. After a lengthy discussion Ms. Ryerson questioned if she could change her vote. This was her poll vote, not a vote on a motion. Ms. Ryerson commented that she still believes that the spirit of the ordinance has been violated by this project, but it is a "has been", this is not in fact a clean piece of paper. Therefore, I say that I vote yes on number one. I still do think they did not demonstrate that their practical alternatives, but, it's their point of view, and their point of view, there were none. And it was up to us to tell them they could not do that at the time. But this is a past tense situation and we're all being kind of silly to say this so.

Mr. Jensen stated that they were now voting on the amendment for the motion to grant the Conditional Use Permit, made by Mr. Punturieri and seconded by Mr. Bartlett. Motion for amendment passed unanimously.

Mr. Jensen called for a vote on the motion to grant the conditional use permit as amended. Motion passed 5 to 2 in favor with Mr. Punturieri and Mr. Jensen opposing.

Mr. Howard returned to the board as Chairman at this time. The board took a 5 minute break.

VI. Informal Discussions

VII. Unfinished Business

VII. Other Business/Correspondence

1. Discussion of proposed acquisition of 970 Whittier Highway

Mr. Nelson recused himself from this discussion and Mr. King left the meeting at this time (8:50).

Carter Terenzini, Town Administrator, stated the Board of Selectmen was seeking review and recommendation of the planning board and conservation commission for the proposed acquisition of a parcel of land at 970 Whittier Highway, TM 52, Lot 14. He briefly described the location of the 5.05 acre lot. The BoS are interested in acquiring the property for several potential reasons. There are three possible uses. The first is for a potential second egress across the land from the school. The second possible use is in conjunction with the sidewalk study that is now being under taken. The third possible use is in conjunction with the proposed study for gym facility that was the sense of the town meeting to proceed with. The land is not being considered exclusively for anyone of those things, but those are three things that the select board discussed in their meeting. Mr. Terenzini stated that the proceeds of the sale are to be dedicated to an educational scholarship in perpetuity for graduating Academy students. Mr. Terenzini asked if the board saw that the acquisition of this property has public purpose.

Board members discussed things relating to the property such as the age of the building, the potential reuse of the building, and historical value of the property. After discussing this it was general feeling of a majority of the board that there was public purpose for the property and that they felt the BoS should proceed forward with studying the acquisition and put it before the voters to acquire the lot.

Motion: Mr. Jensen moved that the Planning Board recommends to the Board of Selectmen that they continue to explore the acquisition of the property located at 970 Whittier Highway as they recognize there is a potential public purpose in acquiring the real estate, seconded by Mr. Punturieri, carried unanimously.

2. Mr. Woodruff briefly updated the board regarding the Master Plan Survey. He noted that there will be postcards mailed to all property owners on or about July 18, 2013 informing residents and taxpayers of the survey and how they may complete it. It may be completed online (to go live on or about July 22nd) at <https://www.surveymonkey.com/s/Mboromasterplansurvey>. They may pick up a hard copy at the Town Hall or Library, or call the Town Hall to have a hard copy mailed to them.

Mr. Woodruff noted that he had scheduled three “Speak Out” meetings. The first meeting will be Tuesday, July 16, 2013 from 7-9 PM at the Balmoral Clubhouse. The second will be Monday, August 19, 2013 from 7-9 PM at the Geneva Point Center Great Room and the third will be Wednesday, August 21, 2013 from 7-9 PM at the Lion’s Club. Speak Out Moultonborough: Listening to your ideas on Vision, Land Use & Development and Transportation is where residents and taxpayers get to comment, give us their ideas, their vision, their problems and issues on planning for the Town in the areas of future vision, development and regulations, and traffic and transportation. We will record all their thoughts, comments, issues and ideas. We will not answer questions at these meetings, its purpose is simply to hear from the residents and taxpayers.

It was noted that there we no new submissions submitted for the July 24th meeting and that there are no agenda items. Due to the extra evenings in which the “Speak Out” meetings are scheduled it was the decision of the board to cancel their next regular meeting.

Motion: Mr. Jensen moved that the board cancel their meeting of July 24, 2103, Seconded by Mr. Punturieri, carried unanimously.

IX. Committee Reports

- X. Adjournment:** Mr. Punturieri made the motion to adjourn at 9:24 PM, seconded by Mr. Jensen, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant